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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,540	07/02/2003	Randy D. Baxter	RSW920030049US2	3593
43168 7590 07/18/2008 MARCIA L. DOUBET LAW FIRM PO BOX 422859 KISSIMMEE, FL 34742				
EXAMINER				
KARDOS, NEIL R				
ART UNIT		PAPER NUMBER		
3623				
NOTIFICATION DATE		DELIVERY MODE		
07/18/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mld@mindspring.com

Office Action Summary

Application No.

10/612,540

Applicant(s)

BAXTER ET AL.

Examiner

Neil R. Kardos

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21, 24 and 25 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-21, 24 and 25 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 20, 2008 has been entered.

This is a **NON-FINAL** Office action on the merits in response to Applicant's submission filed June 20, 2008. Currently, claims 1-21 and 24-25 are pending.

Remarks

2. **Rejection under § 103**

Applicant's arguments with respect to the prior art rejection of claims 1-21 and 24-25 have been considered but are moot in view of the new ground(s) of rejection.

3. **Double Patenting Rejections**

The terminal disclaimer filed on June 20, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of the listed applications has been reviewed and is accepted. The terminal disclaimer has been recorded.

The filing of this terminal disclaimer is sufficient to overcome the double patenting rejections set forth in the previous office action. Thus, these rejections have been withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-4, 7-17, 21, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crow, “Customer-focused Development with QFD,” published on September 30, 2000 and accessed via the Wayback Machine (www.archive.org).**

Claim 1: Crow discloses:

- determining a plurality of criteria that are important to a target market, and at least one attribute that may be used for measuring each of the criteria (see “Introduction” on page 1, disclosing producing products to meet customer needs; House of Quality figure on page 4, depicting attributes that meet customer requirements);
- specifying objective measurements for each of the attributes (see item 3 on page 4, disclosing measurable characteristics to satisfy customer needs; House of Quality figure on page 4);
- conducting an evaluation of a product, further comprises steps of:
- inspecting a representation of the product, with reference to selected ones of the attributes (see concept selection matrix on page 7, depicting different concepts and their associated scores for different attributes; “Concept Selection and Product Design” beginning on page 6);

- assigning attribute values to the selected attributes, according to how the product compares to the specified objective measurements (see id.); and
- generating an assessment score for the product from the assigned attributes (see id.; item 8 on page 5).
- generating a list of recommended actions, the list having an entry for each of the selected attributes for which the assigned attribute value falls below a threshold, each of the entries providing at least one suggestion for improving the assigned attribute value (see item 2 on page 4, disclosing making recommendations for closing gaps for attributes that fall below a benchmark threshold) and
- a specification of how much the assessment score would be increased if the assigned attribute value was raised to the threshold (see concept selection matrix on page 7, depicting a matrix used to calculate a total score for a product by multiplying an importance rating by a value given to a symbol for a variety of attributes, and then summing the attribute values to arrive at a total score; thus, if a value is raised to a certain threshold, one can see how this change will reflect in the product's overall assessment score).

Crow is not expressly clear on threshold values. However, Crow discloses gap analyses and benchmarking, which are old and well-known techniques. It is well known to use these techniques during a product's design phase in order to improve that end product by making it equal to or better than a competing product (i.e. closing the gap or meeting the threshold). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use threshold values as claimed when performing the methodology of Crow. This

combination of known elements produces a result that would be predictable to one of ordinary skill in the art.

Crow does not explicitly disclose evaluating IT products. However, Examiner takes Official Notice that it was well-known in the product development arts at the time the invention was made to apply evaluation techniques to different types of products, including IT products. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the product development methodology taught by Crow to IT products. It was within the capability of one of ordinary skill in the art at the time the invention was made to evaluate IT products according to the methodology of Crow, and the result of an assessment score is predictable.

Claim 2: Crow does not explicitly disclose wherein the list of recommended actions is generated automatically, responsive to the assigned attribute values that fall below the threshold. However, it is old and well-known in the computing arts to automate processes. *See in re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the processes disclosed by Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies gained through process automation.

Claim 3: Crow discloses:

- prioritizing each of the attributes in view of its importance to the target market (see House of Quality on page 4, “Priority”; Concept selection matrix on page 7, “Importance Rating”);
- assigning weights to the attributes according to the prioritizations (see id.); and
- using the weights when generating the assessment score (see id.).

Claim 4: Crow does not explicitly disclose wherein the assessment score is programmatically generated. However, it is old and well-known in the computing arts to automate processes. *See in re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the processes disclosed by Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies gained through process automation.

Claim 7: Crow discloses wherein a product team developing the IT component provides input for the evaluation by answering questions on a questionnaire that reflects the attributes (see questions in items 1-10 on pages 3-6).

Claims 8-10: Crow does not explicitly disclose recording information about scores, recommendations, and answers to questionnaires in a workbook, including an electronic workbook.

Examiner takes Official Notice that it was well-known in the research and development arts at the time the invention was made to record research and development data in a workbook, including an electronic workbook (e.g. Microsoft Excel).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to record the information gathered during the product development stages of Crow in an electronic workbook according to well-known methods. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies gained by recording data.

Claims 11-12: Crow discloses providing the scores and recommendations to a product team developing the IT product (see at least ¶¶ 3-4 on page 1).

Crow does not explicitly disclose an assessment workbook. However, this deficiency has been addressed in the rejection of claims 8-10, above.

Claim 13: Crow does not explicitly disclose assigning a special designation to the IT product if and only if the assessment score exceeds a predefined threshold. However, this practice is old and well-known. For example, Consumer Reports designates products receiving a certain score as a "Consumer Reports Best Buy." Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply old and well-known assessment designations to the products assessed by the methodology of Crow. This combination of known elements produces a result that would be predictable to one of ordinary skill in the art.

Claims 14-17: Claims 14-17 are substantially similar to claim 1, and are rejected under similar rationale.

Claim 21: Claim 21 is substantially similar to claim 13, and is rejected under similar rationale.

Claim 24: Claim 24 is substantially similar to claim 1, and is rejected under similar rationale.

Claim 25: Crow does not explicitly disclose charging a fee for carrying out one or more of the conducting, recording, and using steps. However, it is old and well-known to charge fees for conducting services in order to make a profit. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to charge a fee for carrying out the methodology of Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of profit.

6. Claims 5-6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crow in view of Korisch (US 2004/0068456).

Claim 5: Crow does not explicitly disclose wherein the step of conducting an evaluation is repeated at a plurality of plan checkpoints used in developing the IT component.

Korisch teaches repeatedly checking to determine if a product meets predetermined specifications in order for that product to proceed to the next step (see figure 4, item 29; paragraph 154, lines 19-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to repeat the methodology of Crow throughout the design process as taught by Korisch. One of ordinary skill in the art would have been motivated to do so for the efficiencies gained by meeting product requirements (see Korisch, paragraph 154, lines 22-24).

Claim 6: Crow does not explicitly disclose wherein successful completion of each of the plan checkpoints requires the assigned attribute scores to exceed a predetermined threshold.

Korisch teaches repeatedly checking to determine if a product meets predetermined specifications in order for that product to proceed to the next step (see figure 4, item 29; paragraph 154, lines 19-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to repeat the methodology of Crow throughout the design process as taught by Korisch. One of ordinary skill in the art would have been motivated to do so for the efficiencies gained by meeting product requirements (see Korisch, paragraph 154, lines 22-24).

Claim 20: Claim 20 is substantially similar to claim 6, and is rejected under similar rationale.

7. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crow in view of Lowe, “QFD in new production technology evaluation.”

Claims 18-19: Crow does not explicitly disclose wherein the specified objective measurements further comprise textual descriptions to be used in the step of assigning attribute values using a multi-point scale.

Lowe discloses these limitations (see col. 1-2 on page 108, disclosing guidelines for establishing scoring values based on a four-point scale; table 1, disclosing definitions for product characteristic levels; table 2, disclosing guidelines for evaluation of interrelationship values; table 3, disclosing guidelines for importance scoring).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the guidelines disclosed by Lowe to score the attributes of Crow. One of ordinary skill in the art would have been motivated to do so for the benefit of efficiencies and accuracies gained through standardization.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 2003/0216955 to Miller et al, directed to a product design methodology
- US 2002/0087388 to Keil et al, directed to quantifying consumer preferences
- US 5,963,939 to McCann et al, directed to selecting an appropriate product for a customer based on needs
- US 7,103,561 to Sarkisian et al, directed to profiling new vehicles and improvements
- US 7,219, 068 to Zelek et al, directed to product optimization

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neil R. Kardos
Examiner
Art Unit 3623

NRK
7/11/08
/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623